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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04-296; DA 14-336]

Comment Requested To Refresh The Record in EB Docket No. 04-296, On Petition Filed By The Minority Media And Telecommunications Council Proposing Changes To Emergency Alert System Rules To Support Multilingual Alerting And Emergency Information

AGENCY: Federal Communications Commission.

ACTION: **Proposed rule;** request for comments.

SUMMARY: In this document the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB), under authority delegated by the Commission, seeks to refresh the record in EB Docket No. 04-296 on issues raised in a Petition for Immediate Interim Relief (Petition) filed by the Independent Spanish Broadcasters Association, the Office of Communications of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council (hereinafter collectively or individually referred to as "MMTC"), regarding the ability of non-English speakers to access emergency information and similar multilingual issues. The Commission initially sought comment on the petition in the Commission's First EAS Report and Order and Further Notice of Proposed Rulemaking (First R&O and FNPRM in EB Docket 04-296, and subsequently sought comment on the petition in the Commission's Second EAS Report and Order and Further Notice of Proposed Rulemaking (Second R&O and FNPRM), in that docket. MMTC also has expanded upon the petition in subsequent ex parte filings before the Commission.

DATES: The notices of proposed rulemaking published November 25, 2005 (70 FR 71072), and November 2, 2007 (72 FR 62195), are reopened. Comments are due on or before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL

REGISTER] and reply comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by EB Docket No. 04-296 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- Mail: Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- People with Disabilities: Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

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Homeland Security Bureau at (202) 418-2351 or by email: gregory.cooke@fcc.gov; or David Munson, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2921 or by email: david.munson@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's document in EB Docket No. 04-296 , DA 14-336, released on March 11, 2014.

This document is available to the public at

http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0311/DA-14-336A1.pdf.

Synopsis of this Document

1. In this document, PSHSB seeks to refresh the record in EB Docket No. 04-296 on various proposals and issues first raised in the MMTC Petition and expanded upon in subsequent ex parte filings, regarding the ability of non-English speakers to access emergency information and similar multilingual issues, both within and outside of the EAS context. As explained below, the Commission has sought comment on the Petition in this Docket originally in 2005 and subsequently in 2007.

I. Background

2. MMTC filed its Petition on September 22, 2005, in response to its perceived deficiencies in distributing multilingual emergency information in the aftermath of Hurricane Katrina. In its Petition, MMTC proposed that the Commission revise its EAS rules, 47 CFR 11.1, et seq. to: (i) “provide that Primary Entry Point (PEP) stations air all Presidential level messages in both English and in Spanish”; “include a [‘]Local Primary Spanish’ (‘LP-S’) designation and provide that state and local EAS plans would designate an LP-S station in each of the local areas in which an LP-1 has been designated”; “include a Local Primary Multilingual (‘LP-M’) designation in local areas where a substantial proportion of the population has its primary fluency in a language other than English or Spanish”; “provide that at least one broadcast station in every market would monitor and rebroadcast emergency information carried by local LP-S and LP-M

stations”; and “specify that if during an emergency a local LP-S or LP-M station loses its transmission capability, stations remaining on the air should broadcast emergency information in affected languages (at least as part of their broadcasts) until the affected LP-S or LP-M station is restored to the air.”

3. In November of 2005, the Commission released its EAS First Report and Order and Further Notice of Proposed Rulemaking (First EAS R& O and FNPRM) in EB Docket No. 04-296, 70 FR 71072, November 25, 2005, in which the Commission sought petition and incorporated it into the docket. Subsequently, in 2007, the Commission released its Second EAS Report and Order and Further Notice of Proposed Rulemaking in EB Docket No. 04-296, 72 FR 62195, November 2, 2007, in which it sought further comment on the petition.

4. In various ex parte filings, MMTC has further expanded upon the Petition, most recently in a December 12, 2013 filing, in MMTC stated that the Commission should require “broadcasters to work together, and with state and market counterparts, to develop a plan that communicates each party’s responsibility based on likely contingencies.” Specifically, MMTC stated, “Such a plan could be modeled after the current EAS structure that could include a “designated hitter” approach to identify which stations would step in to broadcast multilingual information if the original non-English speaking station was knocked off air in the wake of a disaster.” MMTC added, “One market plan might spell out the procedures by which non-English broadcasters can get physical access to another station’s facilities to alert the non-English speaking community – e.g. where to pick up the key to the station, who has access to the microphones, how often multilingual information will be aired, and what constitutes best efforts to contact the non-English broadcasters during and after an emergency if personnel are unable to travel to the designated hitter station.” To ensure accountability, MMTC proposed that broadcasters should be required to certify, on their license renewal application, their understanding of their role in the plan.

II. DISCUSSION

A. MMTC's Proposals

5. The Commission seeks comment on MMTC's proposal, particularly as related to its December 12, 2013, ex parte filing, in which it suggested that broadcast stations within any given market be required to enter into emergency communications plans to support each other in the case of an emergency. MMTC believes that such a requirement would ensure that non-English speaking populations receive timely access to both EAS alerts and non-EAS emergency information. Is that correct? Are there other benefits? Drawbacks? How would such a requirement be implemented? For example, should it be prescriptive or should the requirement specify minimum standards to be included in emergency communications plans? What would be the costs of such a requirement?

6. If the Commission adopts MMTC's proposal, what would be the appropriate scope of such a requirement? For example, should such a requirement only apply in states or markets where there is at least one licensed broadcast station that serves non-English speaking populations? Alternatively, should it apply in any state that has sizeable populations that do not speak English as a primary language, irrespective of whether there is a broadcast station offering programming in those populations' primary languages? If so, what population size should trigger the requirement? In addition, should this requirement only apply in states that are more susceptible to certain types of events, such as hurricanes, tornadoes or earthquakes? Are there other limitations or applications of this requirement that the Commission should consider?

7. The Commission also seeks data and information on the extent to which emergency communications plans similar to that proposed by MMTC are already in existence. Are there any markets where such plans currently exist? If so, how are these plans implemented? Do such plans involve only broadcasters or do they involve other types of communications service providers as well? Are state and/or local governments included? To what extent do these

plans involve markets served by at least one broadcast station that broadcasts in languages other than English? In such cases, do these agreements address how the EAS and emergency information needs of populations who do not speak English are served if the station(s) that serve them are knocked off the air during an emergency? If so, how? What has been the experience, including the costs associated, with such plans?

8. In its Petition and various ex parte filings, MMTC has advocated for what it calls a “designated hitter” approach in which designated stations in a given market would agree to air EAS alerts and non-EAS emergency information in the language of a non-English station if the latter station is rendered inoperable during an emergency. Is there any market where broadcast stations have implemented this approach? If so, have any stations actually performed the “designated hitter” function? The Commission seeks information and comment on the experiences of both broadcast stations in that scenario. The Commission also seeks comment on the consumer experience. For example, how are non-English speaking populations in the market informed to turn to the designated hitter station in such circumstances?

9. In the past, broadcast stakeholders have raised concerns that MMTC’s designated hitter proposal would require broadcasters to retain personnel who could translate emergency information in the language of the downed station. MMTC has responded to these concerns by arguing that designated hitter stations could simply allow access to the employees of the downed non-English station. The Commission seeks updated comment on this view as well as specific cost information on the designated hitter proposal.

10. Finally, the Commission seeks updated comment and information on MMTC’s other proposed changes to the EAS rules, as set forth in its Petition, particularly given the EAS’s transition to CAP. For example, the Commission seeks updated comment on the feasibility of requiring that PEP stations deliver Presidential alerts in both English and Spanish. Have there been technical or other developments that would affect the feasibility for FEMA or the PEPs to

provide a simultaneous translation of an EAS Presidential alert? Could any other entity provide translations of the Presidential audio while the EAS was in effect? Could automatic translation software or devices be used to provide non-English translation of a Presidential alert?

11. What about for non-Presidential EAS alerts? In previous comments, the National Association of Broadcasters and the Association For Maximum Service Television, Inc., asked how on-air stations would obtain non-English EAS content from non-English speaking LP-S or LP-M stations. Have there been any technical developments that would affect who would be responsible for the initial translation of the alert? Broadcast and cable industry representatives and EAS equipment manufacturers previously have maintained that responsibility for issuing multilingual alerts must rest with alert message originators, and that it would be impractical for EAS Participants to effect timely and accurate alert translations at their facilities. Is this still the case?

12. In addition, the National Cable and Telecommunications Association (NCTA) has pointed out that under the EAS architecture a non-Presidential alert is limited to two minutes and that EAS equipment is programmed to reject duplicative alerts. According to NCTA, if MMTC's proposal were to be adopted, and alert originators sent out multiple non-English two-minute alerts, EAS Participants' equipment would reject all but the original alert as a duplicate. Thus, according to NCTA, under the current EAS architecture, a translation of a given alert, along with the English language version, would both have to fit within one two-minute timeframe, a result that would greatly reduce the amount of the substantive information that the alert could convey and thus diminish the effectiveness of the EAS overall. Is this the case?

13. On a more general basis, would implementing MMTC's proposals be compatible with the EAS architecture contemplated by the Commission's Fifth Report and Order in EB Docket No. 04-296, 77 FR 16688, March 22, 2012, wherein the broadcast-based EAS and the CAP-based EAS are both integrated into FEMA's IPAWS? Are there other changes to the

Commission's EAS rules, beyond those proposed in MMTC's Petition that would be required to implement MMTC's original proposals? What would be the costs and benefits of such rule changes?

B. Alternative Approaches for Multilingual Alerting

14. In the EAS First Report and Order, the Commission sought "comment on any other proposals regarding how to best alert non-English speakers." The Commission now seeks to refresh the record on potential avenues different from the one proposed by MMTC that would accomplish the same objective. Is one potential approach for the Commission to require that this issue be addressed as part of state EAS plans? As noted above, MMTC's proposal is intended, in part, to ensure that non-English speaking populations have access to timely and accurate alerts and other emergency communications before, during, and after a disaster. Would incorporating its latest proposal into the Commission's existing state EAS plan rules meet this objective? Under this approach, broadcasters and other EAS Participants would not be subject to a separate planning requirement. In addition, incorporating this requirement into the state EAS plan rules would ensure that this issue is addressed in a manner consistent with other parts of a state's overall EAS planning. The Commission seeks comment on this view and the perception that this approach is a reasonable path forward. Are there any drawbacks to this approach? Commenters arguing in favor or against the reasonableness of this approach should provide substantive and compelling information regarding burdens or the effectiveness of a requirement to include minority broadcast alert contingency planning within state plans.

15. If the Commission requires that multilingual alerting be addressed in state EAS plans, should the Commission continue to use the current standard for accountability? MMTC recommends that the Commission require broadcasters to certify in their license renewal applications that they understand their role under these communications plans. The Commission seek comment on this proposal.

C. Other Issues Raised by the MMTC Petition

16. In addition to refreshing the record on MMTC's proposal and other potential avenues to address, the Commission seeks to refresh the record on the current state of multilingual EAS alerts, and other possible solutions by which the Commission could facilitate multilingual EAS alerts. For example, the Commission seeks information on the extent to which EAS alerts are aired in languages other than English. The Commission understands that Florida regularly issues Spanish language alerts in parallel with English language alerts and has designated three Spanish Local Primary stations in its EAS plan. The Commission seeks more detailed information on how this works. What other jurisdictions have engaged in similar approaches? To what extent are EAS Participants able to translate English EAS alerts into other languages?

17. The Commission also seeks comment on the extent to which CAP-based alerting systems have been deployed, particularly at the state level, since the Commission first required EAS Participants to have the capability to receive CAP-based EAS alerts in 2007, and the multilingual alerting capabilities of these systems. For example, to what extent have states with CAP-based alerting systems issued EAS alerts in more than one language? In what languages, other than English, have CAP-based EAS alerts been issued? Is there a translation tool optimized for CAP-based alerting systems? What are the costs and benefits to jurisdictions that have implemented these CAP-based alerting systems? What about state, tribal, local and territorial governments that do not have CAP-based alerting systems?

18. The Commission seeks data and information on the advancement of possible technical solutions for multilingual alerting since 2007. For example, to what extent can text-to-speech technologies be used to provide multilingual EAS alerts? What examples, if any, exist of text-to-speech capabilities being used to provide EAS alerts in multiple languages? What is the status of other translation technologies? Do these technologies produce accurate versions of the

original? Are they clear and understandable? What are the costs and benefits for use of this technology?

19. Finally, are there other technologies that are currently being developed that could be used to transmit EAS alerts in multiple languages? The Commission seeks data on these technologies, including their functionality and accuracy rate as well as their costs and benefits.

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Analysis

20. The EAS First R&O and FNPRM and Second R&O and FNPRM both included Initial Regulatory Flexibility Analyses (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact on small entities of the Commission's proposals. The Commission invites parties to file comments on the IRFAs in light of this additional document.

B. Paperwork Reduction Act Analysis

21. This document seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate document in the Federal Register inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3501-3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

C. Ex Parte Presentations

22. This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. 47 CFR 1.1200, et seq. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing

any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

D. Comment Filing Procedures

23. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All comments and reply comments should reference this document and **EB Docket No. 04-296**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

24. Electronic Filers: Comments may be filed electronically using the Internet by

accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

25. Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

26. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

27. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

28. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

29. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

30. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (tty).

31. Copies of the Petition and any subsequently filed documents in **EB Docket No. 04-296** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C.

20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

32. For further information regarding this proceeding, please contact Lisa M. Fowlkes, Deputy Bureau Chief, Public Safety and Homeland Security Bureau at (202) 418-7452 or by email: lisa.fowlkes@fcc.gov; Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2351 or by email: gregory.cooke@fcc.gov; or David Munson, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2921 or by email: david.munson@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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